

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ELOY A. ROLE,

Plaintiff,

-against-

EUREKA LODGE NO. 434, I.A. of M. & A.W.,
AFL-CIO and DIE-MATIC PRODUCTS, INC.,

Defendants.

**MEMORANDUM OF DECISION
AND ORDER**
00-CV-4781 (DRH)(ETB)

HURLEY, District Judge:

By letter dated April 1, 2005, plaintiff's former attorney, Bernard Weinreb, moved for release of a portion (\$5,000.00) of the settlement amount (\$15,000.00) presently held in escrow by the Clerk of the Court. By Order dated April 22, 2005, this matter was referred to United States Magistrate Judge E. Thomas Boyle. On November 30, 2005, Judge Boyle issued an Amended Memorandum Opinion and Order granting counsel's application to the extent that he receive \$13,875.00. No party has filed objections or appealed from the Order.

This Court will treat Judge Boyle's Order as a Report and Recommendation.¹ Accordingly, the Court may adopt those sections to which no objections have been made and which are not facially erroneous. *See Fed. R. Civ. P. 72(b); Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also Spence v. Superintendent, Great Meadow Correctional Facility*, 219 F.3d 162, 174 (2d Cir. 2000) (finding that report should be reviewed for "plain error" when no objections made).

¹ Pursuant to Rule 54(d)(2)(D) of the Federal Rules of Civil Procedure, district courts should treat motions for attorneys fees as "dispositive pretrial matter[s]" for purposes of reviewing objections to a magistrate judge's decision. Fed. R. Civ. P. 54(d)(2)(D).

Having reviewed the Report for plain error, the Court concurs in both its reasoning and its result. Accordingly, the Court adopts the November 30, 2005 Report of Judge Boyle as if set forth herein. Thus, Mr. Weinreb's motion for release of the attorney's fees paid to him as part of the settlement of this matter, and presently held in escrow by the Clerk of the Court, should be granted to the extent that he receive \$1,125.00, plus any accrued interest on that amount. The Clerk of the Court is directed to deliver to Eloy Role the remaining balance in the sum of \$13,875.00, plus accrued interest on that amount.

SO ORDERED.

Dated: Central Islip, N.Y.
December 16, 2005

/s _____
Denis R. Hurley,
United States District Judge